



The

RAG

News bulletin from ARAG UK

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Necessity is the mother of invention

Should you need proof that creativity is spurred on by adversity, look no further than the legal expenses sector. ARAG is rolling out new products, taking technology in new directions, and helping grow new business for our partners. All this, despite the challenges on both the political and legal landscapes.

Fee caps, whiplash reforms, increases in small claims levels plus Brexit, place special demands on our resources and business model. Because of this, we have already rebalanced our BTE and ATE portfolios and are able to actively seek new business from a variety of sources in both BTE and ATE sectors.

On the face of it, this is a complicated recipe with which to progress our second decade in the UK. However, nothing has changed in our philosophy of opening the doors to justice for everyone, whatever their financial status. The consistent accolades at awards ceremonies confirm our belief in the highest standards throughout the organisation: our by-words remain innovation, flexibility and service.

Elsewhere in this issue of the RAG we have a lot to say about the Insurance Distribution Directive, BTE developments and the need for employers to reconsider their commercial policies (CLP) now that employment tribunal fees have been scrapped. CLP has proved an enormous growth area, along with assistance services, and we aim to keep all BTE products affordable whilst providing top level cover

and service. ARAG will meet the challenges of the market with solutions that benefit all our partners and policyholders.

Upcoming test cases will untangle some of the current impasse over clinical negligence settlements and we will ease some of the current solicitor 'malaise' through a new advanced disbursement product, aiding their cash flow.

Housing disrepair continues its strong growth and we are looking to more debt recovery and professional negligence for matrimonial business. Closer ties with solicitors through the pre-paid disbursement product will help introduce ARAG as the ideal partner for employers' liability and motor business too. We already have our Practice Policy that covers all ATE cases in a firm.

I am pleased to say that we shall continue pursuing clinical negligence claims at the current level. And after the hysteria over discount rates earlier this year, insurers and government are getting closer to a more balanced view with a final figure that looks like it will be fairer to claimants.



MD Tony Buss

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'ARAG's personal and commercial policyholders have been largely insulated from the fee regime.'

A better summer for access to justice

It's often said that a week is a long time in politics, so perhaps it isn't surprising that the six months since the last edition of the RAG seem like an age.

June's snap election hadn't even been called when we were putting together our last issue, and it transformed not just the wider political landscape, but also the immediate future of legislation set to have a major impact on our market and policyholders.

Reforms to tackle the so-called "compensation culture" ran out of parliamentary time, but the political impetus seems to have survived in the Civil Liability Bill.

In spite of the mauling it took at Select Committee, the claim of saving motorists £35 on annual premiums still made the summary of the new bill in the Queen's Speech.

Further scrutiny and the government's diminished position in the House of Commons may force some compromise on the controversial 'whiplash' proposals, but the priority demanded by eight pieces of Brexit legislation makes the planned October 2018 implementation seem unlikely.

The courts may have a reputation for moving a little slower than Westminster, but the

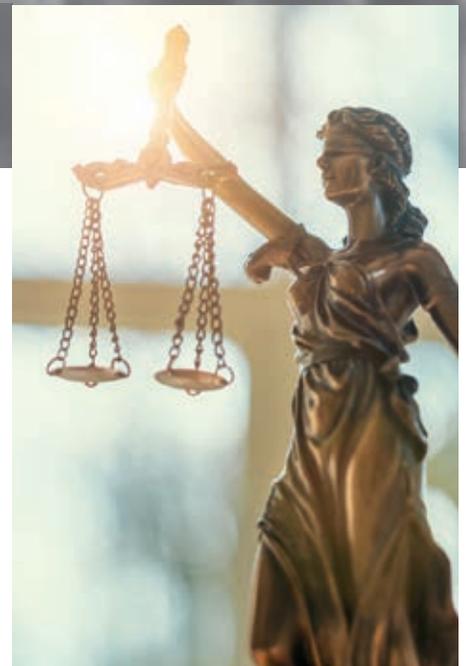
impact of one decision handed down over the summer is equally important.

In July, the Supreme Court ruled that the fees charged since 2013 to bring a case to an employment tribunal were unlawful. UNISON succeeded in proving that the fees, which ranged from £390 to £1,200, were indirectly discriminatory and restricted access to justice.

As well as sorting out which fees should be refunded (successful applicants may already have recovered them in their settlement) the government will also have to manage increased demand on the tribunal system and ACAS, where the early conciliation process introduced in 2014 is still mandatory.

ARAG's personal and commercial policyholders have been largely insulated from the fee regime and its reversal, underscoring the great value that legal protection offers, but removing the fees barrier while maintaining the compulsory ACAS process, strikes a balance between the interests of employers and employees.

If all that were not enough, in September, the Ministry of Justice proposed a new mechanism for calculating the 'discount rate', in response to the collective outcry



thrown by insurers when the rate was revised in February.

Precisely what rate the new mechanism will produce remains to be seen, but a sensible compromise seems likely, so there should be no return to the serious underfunding of long-term care that severely injured people suffered for so long.

While there are still clouds on the horizon, it has been a better summer for access to justice than we might have forecasted and some threats to the stability and great value that our policies offer seem to have abated, for now at least.

BTE sales team boost

Justin Freeman came to ARAG in early October to take on the role of Corporate Account Manager. He's now responsible for developing our growing relationships with insurers, financial institutions and other MGAs.



Commenting on Justin's appointment, Head of Sales, Andy Talbot said: "Justin joins us with a lot of experience working on large accounts and specifically in the legal expenses sector. I think he's going to prove a great addition to the team and his understanding of our market is a real benefit."

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Whiplash and discount rate reforms delayed

Earlier this year, we contrasted the media reactions to two significant legal developments as they unfolded.

The first, a long overdue correction to the 'discount rate' applied to the settlements in the most serious personal injury cases, had been debated and stalled for years but was met with shock and outrage from insurers and gathered headlines across news, business and finance pages in the national press.

The second, a fundamental change to a common law right to be compensated for injuries caused by another party, was whisked through consultation, past the Justice Select Committee and into a parliamentary bill in a matter of weeks, with barely a murmur.

Since then, a new Lord Chancellor has promised legislation that will allow for his successors to reset the 'discount rate' regularly, on the advice of a panel of diverse and independent experts.

The parliamentary bill to establish the new mechanism has yet to emerge, and the insurance lobby is growing impatient.



However, David Liddington has revealed that it will maintain the principle of 100% compensation, will use "low risk" as opposed to "very low risk" investments as a benchmark and will review the rate every three years.

Among many measures in the Prison and Courts Bill which ran out of parliamentary time when the snap election was called, the 'whiplash' reforms made the headline

summary of the Civil Liability Bill included in the Queen's Speech.

Clearly, neither piece of legislation is likely to find its way before parliament until well into 2018, which would make implementation next year unlikely. Such a timetable isn't going to satisfy insurers though, who are already pressing the Lord Chancellor to adjust the 'discount rate' again, before the new process is established.

Getting Data Privacy Right

“Data protection... didn't we just do that?”

Facebook founder Mark Zuckerberg was still in high school, two Stanford PhD students were in the process of founding Google and none of us had even heard of WiFi, let alone cloud computing, when the UK passed its most recent Data Protection Act.

So, it's fair to say the legislation could do with a tune-up.

The General Data Protection Regulation (GDPR) will supersede our 1998 Act and

similar legislation in every other EU member state, and has been built to unify legislation and strengthen data protection for individuals throughout the EU.

What's new?

There are new rights for data subjects; new responsibilities for businesses; a new principle: accountability; and much tougher penalties including compensation for data subjects and fines of up to €20 million (more for the very largest companies).

What do brokers need to know?

Far too much to cover here, but BIBA has produced extensive guidance, available online.

What about law firms?

Similarly, solicitors have a lot to be aware of, but the Law Society has created some excellent resources for the profession.

But, but... Brexit?

GDPR will be enforced in the UK regardless of Brexit. It is also expected that its requirements will continue here, whatever the terms of any Brexit deal.

How long have we got?

About 6 months. GDPR compliance must be achieved by May 25, 2018. That may still seem a way off, but we all know how long systems work can take.



OUR
VISION

Our journey to ICS Service Mark accreditation

ARAG has always differentiated itself from its competitors on quality of service, not just since we launched here in the UK a decade ago, but in Düsseldorf more than 70 years before that.

However, there comes a time when all the internal measures and industry awards are not enough and we need to set a more ambitious goal; not just to be the best in our industry, but to be among the best in any industry. That's why we have just embarked on our path towards Service Mark accreditation with the Institute of Customer Service (ICS).

There are any number of badges and accreditations a company can print on its letterhead or display in reception to suggest service excellence, but for ARAG this is more about the journey than the destination. In fact, we have chosen the ICS because it offers much more than a box-ticking exercise and will really challenge our existing systems and approach.

During this journey we will re-examine our strategic and operational approach to the customer experience. All aspects from measurement, recruitment, learning and development, digital systems and our business processes will come under scrutiny. We will also consider how we can better engage our staff and customers to work more effectively together towards common goal of access to justice.

The work will start in our before-the-event claims department with the aim of achieving Service Mark accreditation by the end of 2019. However, we won't stop there; the programme will then expand to encompass all our business interactions with all customer types, whether a policyholder, broker, solicitor or anyone else. Our ambition is to have our whole operation Service Mark accredited during 2021.



The Institute of
Customer Service
MEMBER



'IDD will impact on product design, sales, HR, data security and many other areas.'

Better consumer information on the way

Whatever the final outcome of the Insurance Distribution Directive (IDD), end-users will be better informed on the insurance products they are buying. Consultation may yet modify the FCA's suggestions but the broad concepts will remain and apply from pre-purchase to after the end of the contract:

- know your customer
- know your target market
- facilitate product comparisons and avoid competitive distortions
- provide Insurance Product Information Document (IPID)
- protect customer's money
- no conflicts of interest

Achieving all these objectives requires a holistic approach within the organisation and then again when the product is retailed, bundled or distributed. Point of sale is of course the most crucial aspect but IDD will impact on product design, sales, HR, data security and many other areas. The consumer must first be presented with a clear choice that meets their needs and, second, be provided with something that lives up to their expectations.

The new IPID must be in a durable medium, such as on paper, and contain objective details of the product and exclusions. It must be available for renewals and bundled



packages where more than one IPID may be needed. Though brief in content, it must give sufficient helpful information to inform the customer's choice prior to them concluding the contract. It will be up to the retailer to decide the point at which the information is most appropriate to aid that choice. Get it wrong and it will of course count against you in ombudsman decisions.

From 0-100



Recent publication of our annual results reveals much about the past and hints towards the future. To amplify his financial summary, MD Tony Buss was interviewed in a video on the ARAG YouTube channel to explain how a decade of growth has firmly underpinned the company's ambition for the next 10 years.

Successive years of pre-tax profit showed another rise to £2.4 million in 2016, with particularly strong growth in BTE and underlying growth in ATE. Headline figures are also impressive: combined income (including reinsurance business generated back into ARAG SE in Germany) increased by 19 % from £26.5 million to £31.5 million, generating a £4.2 million profit. BTE was up nearly 20% overall with commercial and assistance business accounting for much of this increase.

It took the full ten years to go from 0-100 in terms of staff but selecting the right calibre of personnel, then investing in their training and development has been a core strength in the company's controlled expansion.

Throughout 2016, there was the familiar combination of regulatory and legal changes to contend with. FCA initiatives and the add-on investigations were ever-present while the heritage of LASPO will continue to colour the picture for some years to come.

Despite the challenges, and partly because of them, there are exciting opportunities ahead for new products, and ARAG is running at full speed, ready to provide more creative, innovative and flexible solutions.

'The outcome will be vital to the fairness of any fixed costs regime.'

The devil in the detail

It is 9 years since Lord Justice Jackson first got the call from the Master of the Rolls to begin his Review of Civil Litigation Costs which made recommendations largely brought into law by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO).

While debates about the post-LASPO regime persist, few would question Jackson's tenacity. This summer, his latest "supplemental" review, caps months of speculation on the prospect of fixed recoverable costs being extended to cover a much wider range of cases.

The implications for the legal profession and for public access to the justice system will still be significant, but his latest recommendations represent a significant step back from earlier proposals.

In January 2016, Jackson urged ministers to fix costs for claims up to £250,000 but his latest review proposes only to fix costs for all claims up to £25,000.

As always, the devil will be in the detail, but it is encouraging that Lord Jackson has acknowledged the complexity of clinical negligence cases, so that people who have been harmed by the public health system are not subsequently let down by the justice system.



His review recommends that a bespoke process is established for clinical negligence cases that fall beneath the £25,000 threshold and proposes that a joint Department of Health and Civil Justice Council working group be set up to gather views from both claimant and defendant solicitors.

The outcome will be vital to the fairness of any fixed costs regime and to avoid tipping the scales in favour of defendants (most often NHS Resolution) who have already proved willing to play the system to avoid meeting the liabilities presented to them in court.

Lord Jackson hasn't entirely abandoned his aspiration to see fixed costs in much higher

value cases, however. His latest report also sets out plans for a pilot that would provide an optional, streamlined procedure for business and property cases up to £250,000, with fixed costs up to £80,000.

Again, how this is implemented will determine both how fair and how successful any further expansion of the fixed costs regime may be, not least in the resources courts will have to deliver swifter and more cost-effective justice.

Fixed recoverable costs are, without doubt, here to stay and likely to be extended. They can offer benefits to all parties in streamlining and speeding up access to justice, but they could also reduce it, so any expansion must be carefully monitored.



INNOVATION

'Our aim is to continually diversify in the ATE market.'

More action on housing disrepair

Events in the news have focussed attention on the sometimes indifferent attitudes towards keeping rented properties in healthy and proper condition. We are working with a number of solicitors who are taking action on behalf of tenants against their landlords, specifically housing associations or local authorities themselves, in instances where properties fall short of the required standard. The object is to remedy faults, and secure compensation where appropriate, for people who would previously only have had a small voice against big organisations.

ARAG has been helping grow this sector and it fits neatly with our aim to continually diversify in the after the event market.

Housing disrepair claims typically follow a pattern and because of this we are able to offer a fixed premium, deferred until the end of the case, with standard cover of typically £10,000 for all disbursements and adverse costs.

It is excellent news both for residents of dilapidated, unrepaired or damp dwellings and for those solicitors who have become specialised in this area. As firms become unsettled by negative developments that affect the flow of business in the ATE market, such claims will surely enjoy further interest.

ARAG's Housing Disrepair cover can be used for either fast or multi-track claims.

New Account Manager for ATE

Jonathan Bassey joined our ATE business development team in September and will be working with law firms and ATE intermediaries, particularly in the North and East of England.



"At a time when several ATE providers have left the market in one way or another, ARAG is continuing our path of steady growth," comments Director and Head of ATE, Paul Hurley.

"Jonathan has a wealth of knowledge and experience in the legal market that will assist us as we expand our ATE product range to existing and new customers."

Jonathan started his career in financial services, before moving into the legal sector, where he has worked for law firms specialising in costs and, most recently, a legal-tech start-up.

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Innovation, innovation, innovation

ARAG SE has hosted product workshops all around Europe and this year it was the turn of our parent company in Düsseldorf to be the host nation. A representative from Canada also joined colleagues from 11 European countries for the first time.

The workshop provided a great chance to catch up with colleagues; share knowledge, ideas and data across the Group, and it opened up fresh possibilities to adapt ideas for use in different markets and encourage new ways of thinking. The workshop offered delegates a wide range of activities with some parallel working team sessions. Task force members shared ideas in relation to cyber insurance solutions and designing legal protections for suppliers and users of the sharing economy.

As always, the workshop was an enriching experience and UK delegates returned to Bristol with a strengthened expert network and a clutch of practical follow ups which could form the basis of new product innovations in the UK.

Video Killed The Radio Star

We are always looking for new and helpful ways to communicate with our customers and a popular addition is a customer-focused animated video explaining what happens if someone has a claim. Further animated videos are already in production so keep your eyes peeled for these in the new year.

More recent video uploads:

- Update on the clinical negligence market
- Introducing a new ATE Account Manager
- How ARAG's legal advice helpline works



Carefully crafted as brief and incisive, yet informative, they are easy to locate: the latest are displayed on the ARAG website and all can be seen on our YouTube channel.

Where you can find us

16th November 2017

Underwriting Service Awards, London

29th November 2017

Personal Injury Awards, Manchester

13th December 2017

HLP A Housing Law Conference, London



Racing from Bristol to Düsseldorf

It was in late September, on the front lawn of our office, when nearly 40 staff cycled from Bristol to ARAG HQ in Düsseldorf – without ever leaving Bristol. This quirky feat involved four static bikes familiar to anyone who has ever visited a gym and lots of enthusiastic volunteers.

In a single day, the fundraising event raced towards its £5,000 target for our hospital charity of the year, FOCUS.



Just how far is it to Düsseldorf, you may ask? It's actually 510 miles and required an 8am start to ensure it was still daylight when the final four arrived in Germany and broke the virtual finishing tape.

Our huge thanks go to the dozens of individual sponsors who contributed their hard-earned cash for the cause, alongside the many corporate donors in our partner companies. A lot of people really do care.



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